

GOVERNMENT OF TELANGANA
A B S T R A C T

Revenue (Endowments) Department – Appeal filed by Sri T.Sugunakar Yadagirigutta against the order of Commissioner of Endowments Department, Hyderabad – Order – Issued.

REVENUE (ENDOWMENTS.II) DEPARTMENT

G.O.MS.No. 70

Dated:30-05-2015.

Read the following:-

1. The Commissioner of Endowments Department, Telangana, Hyderabad, Proceedings R.Dis.No.A1/36512/2004, Dt.13-09-2004.
2. The Commissioner of Endowments Department, Telangana, Hyderabad, Rc.No.C3/38085/2012, Dt.22-04-2014.
3. Appeal filed by Sri T.Sugunakar and (02) others, Yadagirigutta, Nalgonda District, Dt.24.04.2014.
4. The Commissioner of Endowments Department, Telangana, Hyderabad, Letter No.E1/38085/2012, Dt.12-09-2014.
5. Government Memo No.16027/Endts.II(A2)/2014-1, Dt.09.05.2014.

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In the reference 1st read above, orders were issued to amalgamate Sri Patha Laxmi Narasimha Swamy Temple, Pathagutta with Sri Laxmi Narasimha Swamy Temple, Yadagirigutta under the provisions of Section 145 of the Act, 30/1987.

2. Aggrieved by the above orders, the employees of Sri Laxmi Narasimha Swamy Temple, Yadagirigutta have filed W.P.No.8662/2006. The Hon'ble High Court by its order dt.26-11-2012 dismissed the W.P. observing that there are no merits in W.P. as it is a purely policy decision which cannot be interfered with. The employees filed W.A.No.3/2013 and the Hon'ble High Court, by its order dated:03-01-2013 disposed the appeal observing that the order of Commissioner (Endowments) does not suffer from any illegality and irregularity and confirmed the opinion of learned single Judge, leaving open to the Commissioner to reconsider the matter U/s.145 (3) of the Act, if occasion so arises.

3. In the reference 2nd read above, the Commissioner of Endowments Department, Hyderabad has ordered, among others, to extend all the service, retirement benefits to the staff of Sri Patha Laxmi Narasimha Swamy Devasthanam, Pathagutta duly placing the employees at appropriate place in the respective seniority lists as per eligibility, but they will occupy the last place in the respective cadres and to extend the service benefits on par with the employees of main temple duly treating the (2) temples as a single institution by de-notifying the Pathagutta temple and to maintain accounts in common for administrative convenience.

4. Aggrieved by the above orders of Commissioner of Endowments Department, Hyderabad, Sri T.Sugunakar and (2) others filed Appeal before the Government against the proceedings of Commissioner of Endowments Department, Dt.22.04.2014 on the following grounds:-

- I. The proceedings dt.22.04.2014 of the Commissioner of Endowments Department, Hyderabad is illegal, improper, unjust and contrary to law.
- II. The Proceedings has been issued in utter violations of the directions made in W.A.No.3/2013, Dt.03.01.2013, where under the Hon'ble High Court directed the 1st respondent to reconsider the entire matter in question under Section 145 (3) of the Endowments Act.

[P.T.O]

- III. A glance at the Proceedings shown that no such exercise of reconsideration has been done as contemplated under Section 145 of the Act, 30/1987. In fact, Section 145 of the Endowments Act deals with adoption or amalgamation of institutions and Endowments. As per the said section, the Commissioner of Endowments Department (CED), shall see that whether the institution concerned is not capable of maintaining out of its funds and then the proper management of administration, such institution can either be adopted or amalgamated. In the instant case, no such consideration had taken place though the subject institution above Rs.2.00 Crores income per year and it was already declared as Section 6 (a).
- IV. The 1st respondent having called for report from the 2nd respondent vide report dt.14.09.2012 and 11.01.2013 and having informed that the subject temple is getting Rs.1,34,85,167/- and recommended for revocation of adoption orders, erred in not considering the same.
- V. The 1st respondent mainly concentrated on the grievances of the employees of both Pathagutta Devasthanam and Yadagirigutta Devasthanam and came to an erroneous conclusion that since the employees of Lakshmi Narasimha Swamy Temple will not get effected, passed the impugned order.
- VI. The 1st respondent failed to see that the Division of this Hon'ble Court had categorically directed to consider adoption or amalgamation of the temple in terms of Section 145 (3) of the Act, but there is no whisper about the consideration of the matter in that regard.
- VII. The 1st respondent failed to see that as per Section 145 of the Act the adoption or amalgamation cannot be a permanent arrangement and it is only up to the stage where the subject institution would get proper income for maintain the administration of the temple.
- VIII. The 1st respondent failed to see that in similar circumstances in case of Sri Tripurantakeswara Swamy Temple which was adopted by Sri Brahmaramba Mallikarjuna Swamy vari Temple of Srisailem, had deleted such adoption as Sri Tripuranthakeswara Swamy Temple derived sufficient income to maintain itself.
5. The appellants prayed to suspend the operation of the orders of the Commissioner of Endowments Department, Hyderabad in Rc.No.C3/38085/2012, Dt.22.04.2014 pending disposal of the above appeal and pass such other order or orders as may deem fit and proper.
6. After examining the matter, Government in the 5th read above, granted interim stay on the orders of Commissioner of Endowments Department, Hyderabad proceedings Rc.No.C3/38085/2012, Dt.22.04.2014, duly calling for factual report for detailed examination.
7. The main appeal was heard on 26-03-2015 and Smt N.Geetha, Executive Officer, Yadagirigutta and (6) others were present and submitted their contentions in the appeal. Sri Vedantham Krishnamacharyulu, who submitted representation in the matter was also heard.
8. The point that arises for consideration in this appeal is whether impugned order of the Commissioner, Endowments, Dt.22-04-2014 suffers from any infirmity or illegality and whether it was passed without taking into consideration the order of the Hon'ble High Court of Judicature at Hyderabad in W.A.No.03/2013, Dt.03.01.2013.

9. **Section 145** of the Telangana Charitable and Hindu Religious Institutions & Endowments Act, 1987 reads as under:-

"Adoption or amalgamation of institutions and Endowments:- (1) Where the Commissioner has reason to believe that any religious institutions not capable of maintaining out of its funds, he may, in the interest of proper management of administration subject to such restrictions and conditions as he may deem fit, direct the amalgamation of as the case may be, the adoption of such religious institution by any other religious institution having similar objects and capable of managing such institution and thereupon the trustee of the institution to which it is amalgamated or by which its adopted shall maintain and administer such institution.

- a) Provided that the conditions to be satisfied for any such adoption or amalgamation shall be as may be prescribed.
- b) On such amalgamation or adoption the institution shall be deemed to comprise a single institution and administered as if they were a single institution published Under Section 6.
- c) Where the institution so amalgamated or as the case may be adopted under Sub-section (1), subsequently found to be capable of being managed by it self, the Commissioner may in the interest of proper management of administration, revoke the orders issued under Sub-Section (1), and thereupon the institution shall manage its affairs independently out of its funds.
- d) An appeal shall lie to the Government against the orders passed by the Commissioner under Sub-Section (1) or Sub-Section (3)".

10. It is also pertinent here to extract the following observations of the Hon'ble High Court in W.A.No.3 (2013), Dt.03-01-2013.

(i). *"It is submitted that the Commissioner of Endowments Department with the powers vested in him under Section 145 of the Endowments Act, 30/1987, having considered "Sri Pathagutta Laxmi Narasimha Swamy Vari Devasthanam, (Pathagutta), Peddireddigudem, Yadagirigutta, Nalgonda District not capable of maintaining itself out of its funds, has issued orders to amalgamate the same with Sri Laxmi Narasimha Swamy Vari Devasthanam, Yadagirigutta, for its better maintenance. Accordingly, the temple was amalgamated with Sri Laxmi Narasimha Swamy Devasthanam, Yadagirigutta, in the month of September, 2004. Since, then the temple is being administered by Sri Laxmi Narasimha Swamy Devasthanam, Yadagirigutta. It is a fact that Sri Patha Lakshmi Narasimha Swamy Devasthanam (Pathagutta), Peddireddygudem, before its amalgamation, was actually not in a position to pay salaries to its employees /Dhoopa Deepa Naivedyams and clear the bills to a tune of Rs.46,27,208.20 Ps. for the Year 2004 - 2005 and the bank balance of the temple was of Rs.66,69,911.36 Ps. only as on the date."*

(ii). *"It is further appeared that the object behind the said provision is that when the temple are unable to maintain themselves for want of income even to support the exchequer or to perform minimum temple services such as Dhoopa, Deepa, Naivedyam etc., by virtue of such amalgamation with the rich temple even the poor temple will be maintained well. In view of that, the steps have already been taken in the matter and the order passed by the 1st respondent was also given effect to. In these circumstances, we feel that the order so passed by the learned Single Judge dismissing the Writ Petition holding that the Petitioner organization has not been able to show how its interest is going to be affected by reason of merger of these two temples does not call for any interference. In fact, the same question took us to -*

come to the division in the matter and which we ask our conscience to answer in negative against the Writ Petitioner and accordingly we find that the impugned order does not suffer from any illegality and irregularity and we confirm the opinion expressed by the learned Single Judge. The appeal is accordingly disposed of. However, this order would not preclude the 1st respondent, Commissioner of Endowments to reconsider the matter in question under Section 145(3) of the Act, if occasion so arises. No orders as to costs".

11. It is evident from the order of the Hon'ble High Court, Dt.03.01.2013 that the amalgamation order in the reference first read above, was upheld observing that the same does not suffer from any illegality or irregularity. The Hon'ble High court also observed that its order would not preclude the Commissioner, Endowments to reconsider the matter under Section 145 (3) of the Act, if occasion so arises. Thus, there is nothing in the order of the Hon'ble High Court that mandates reconsideration of the order first read above. Sub-Section (3) of Section 145 of the Act always enables the Commissioner to re-examine the orders passed under Sub-Section (1) of Section 145 if the amalgamated institution is found to be capable of being managed by it self. Apparently, in the instant case, no such occasion has arisen for the Commissioner to reconsider orders issue in the reference first read above. The contentions in the appeal, therefore, are misconceived, as the impugned order is only a consequential administrative order issued by the Commissioner, in pursuance of his order in the reference first read above.

12. Government therefore, do not find any reason to interfere with the order of the Commissioner, Endowments second read above. The appeal is accordingly dismissed and the interim orders issued in the reference 5th read above stand vacated.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

N.SIVA SANKAR
SECRETARY TO GOVERNMENT (FAC)

To

The Commissioner of Endowments Department, Telangana, Hyderabad.

The Joint Commissioner & Executive Officer,

Sri Laxminarasimha Swamy vari Devasthanam, Yadagirigutta,
Nalgonda District-508 115.

Copy to:

The P.S. to Hon'ble Minister for Endowments, Government of Telangana, Hyderabad.

The P.S. to Special Secretary to Chief Minister, CMO Office,
Telangana Secretariat, Hyderabad.

The P.S. to Secretary to Government (FAC), Telangana Secretariat, Hyderabad.
SF/SC's.

// FORWARDED :: BY ORDER //

SECTION OFFICER